

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 94006**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE R-208-93**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### Nevada State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [XX] Temporary [ ] Emergency [ ]

**Brief description of action:** Petition 94006 (LCB R-208-93) permanently amended the solid waste regulations previously adopted by the Environmental Commission on September 22, 1993 and filed with the Secretary of State on November 8, 1993. The petition makes technical corrections and other minor amendments to LCB File No. R-051-93 (NAC 444.570 to 444.748). The sections amended include; 39, 43, 54, 63, 69, 70, 85, 86, 87, 86.5, 87, 94, 96, 112, 116, 134.5. The major amendments included the clarification of environmental health risk guidelines, requirements for final cover notice for closed Class II and Class I facilities, and new class II facility groundwater monitoring requirements.

**Authority citation other than 233B:** NRS 444.560

**Notice date:** December 22, 1993, December 29, 1993 and January 12, 1994

**Hearing date:** January 20, 1994

**Date of Adoption of Agency:** January 20, 1994

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 94006  
LCB R-208-93**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Chapter 444 by the State Environmental Commission (SEC).

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Petition 94006 was noticed three (3) times: December 22, 1993, December 29, 1993 and January 12, 1994 in the Las Vegas Review and Reno Gazette-Journal newspapers. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from the general public regarding this petition.

**2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from business.

**3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulations were adopted at the SEC hearing on January 20, 1994 with no further public comment.

**4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

- a. There are no adverse or beneficial economic effects on the public or regulated sources.
- b. There are no immediate or long-term economic effects on regulated sources. There are no immediate or long-term economic effects on the public.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

There is no additional cost to the agency for enforcement of the proposed regulation.

**6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**

There are no other state or government agency regulations which the proposed amendments duplicate.

**CODIFIED PERMANENT REGULATION OF THE  
NEVADA STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R-208-93**

**Amending LCB File No. R-051-93**

EXPLANATION--Matter in italics is new; matter in brackets [ ] is material to be omitted.

AUTHORITY: NRS 444.560

**Section 1.** NAC 444.570 is hereby amended to read as follows:

444.570 As used in NAC 444.570 to 444.748, inclusive, and sections 2 to [87,] 86.5, inclusive, of [**this regulation,**] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File no. R051-93*, unless the context otherwise requires, the words and terms defined in NAC 444.5705 to 444.632, inclusive, and sections 2 to 21, inclusive, of [**this regulation,**] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93*, have the meanings ascribed to them in those sections.

**Sec. 2.** NAC 444.591 is hereby amended to read as follows:

444.591 "Municipal solid waste landfill unit" means a discrete area of land or an excavation [**for the disposal of**] *that receives* household waste. A municipal solid waste landfill unit may receive [**household waste and**] other types of solid waste, including [,] sludge and industrial *solid* waste. A municipal solid waste landfill unit may be publicly or privately owned. The term does not include an injection well, a surface impoundment, a land application unit or a waste pile, as those terms are defined in 40 C.F.R. § 257.2.

**Sec. 3.** NAC 444.598 is hereby amended to read as follows:

444.598 "Open dump" means an uncontrolled disposal site where solid waste is disposed of in a manner which does not comply with NRS 444.630, [**or a permit issued pursuant to**] NAC 444.570 to 444.784, inclusive, [**and**] *or* sections 2 to [87,] 86.5, inclusive, of [**this regulation.**] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, or any permit issued pursuant thereto.*

**Sec. 4.** NAC 444.634 is hereby amended to read as follows:

444.634 If any of the provisions of NAC 444.570 to 444.748, inclusive, and sections 2 to [87,] 86.5,

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.

**Codified 11/21/93.**

inclusive, of **[this regulation,]** *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93*, or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

**Sec. 5.** NAC 444.636 is hereby amended to read as follows:

444.636 1. The following provisions are hereby adopted by reference:

(a) Appendix I to 40 C.F.R. Part 258, as that appendix existed on **[the effective date of this regulation;]** *November 8, 1993;*

(b) Appendix II to 40 C.F.R. Part 258, as that appendix existed on **[the effective date of this regulation;]** *November 8, 1993;*

(c) The provisions of 40 C.F.R. Part 257.2, as that part existed on **[the effective date of this regulation]** *November 8, 1993*, for the limited purposes of defining "municipal solid waste landfill unit: in NAC 444.591;

(d) The United States Geological Survey, Open File Report 82-1033, "Probabilistic Estimates of Maximum Acceleration and Velocity in Rock in the Contiguous Unites States," for the limited purpose of defining "seismic impact zone" in section 39 of **[this regulation; and]** *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R-051-93;*

(e) "Test methods for Evaluating Solid Wastes, Physical/Chemical Methods", Environmental Protection Agency, Publication No. SW-846, for the limited purposes of defining "liquid waste" in NAC 444.692 **[.] ; and**

**(f) The Toxic Substances Control Act Good Laboratory Practice Standards, 40 C.F.R. Part 792, as those standards exist on the effective date of this regulation, for the limited purpose of conducting scientific studies pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1 of section 54 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93.**

2. Volume 40 C.F.R. Parts 190 to 259, inclusive, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of \$13.

3. The report of the United States Geological Survey may be obtained from the United States Geological Survey, Books and Open Files Reports Section, Federal Center, Building 810, Box 25425, Denver, Colorado 80225, at a cost of \$24.50.

**4. The Toxic Substances Control Act Good Laboratory Practice Standards, 40 C.F.R. Part 792, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of \$26.**

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**Sec. 6.** NAC 444.638 is hereby amended to read as follows:

444.638 1. The provisions of NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5**, inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93***, may not be interpreted to circumvent any of those provisions to make them less effective.

2. If more than one interpretation exists for a provision, the more restrictive interpretation applies.

**Sec. 7.** NAC 444.640 is hereby amended to read as follows:

444.640 1. Open burning of solid wastes at a disposal site, transfer station or other facility which handles solid waste is prohibited.

2. The provisions of NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5**, inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93***, do not prevent the disposal of animal carcasses by burning if such burning is done in accordance with NAC 445.753, except that such burning is not allowed at municipal solid waste landfill units and Class III sites covered by those provisions.

**Sec. 8.** NAC 444.658 is hereby amended to read as follows:

444.658 1. Every municipality or district board of health must develop a plan for the management of solid waste within the area of its jurisdiction, together with a program for carrying out the plan.

2. The area or region to be included in such *a* plan is the area within the boundaries of each county in the state, except in those instances where an incorporated city develops and carries out a separate plan. This section does not prevent several municipalities from developing a single combined plan.

3. Such plans must be comprehensive in scope so as to provide for all parts of a complete solid waste management system.

4. In those area where plans for a solid waste management system have already been developed and approved, plans must be updated as necessary to conform with NAC 444.570 to 444.784, inclusive, and sections 2 to **[87,] 86.5**, inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93***, and submitted to the division. The updated plan may be in the form of a letter or summary if all necessary items are included.

5. The schedule for carrying out the plan must state the times for putting each part of the plan into effect.

6. All municipalities and district boards of health must submit their respective plans for a solid waste management system on or before October 1, 1994.

7. Every plan must be reviewed and updated as necessary, but not less often than once every 5 years following October 1, 1994.

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8. Every plan must be submitted to the division for its approval. The plan may not be carried out unless it has been approved by the division.

**Sec. 9.** NAC 444.660 is hereby amended to read as follows:

444.660 1. The storage on the premises, the collection and the transportation to the disposal site of solid waste must generally be according to the pertinent ordinances or regulations of the city, town or county wherein those services are performed.

2. The provisions of NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5**, inclusive, of **[this regulation,] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, do not abridge the authority of a town, city or county to establish, by ordinance or otherwise, higher standards than those contained in those sections.

3. No system for the storage, collection or transportation of solid waste may be allowed to cause health hazards, public nuisances or otherwise cause or contribute to the impairment of the environment.

**Sec. 10.** NAC 444.674 is hereby amended to read as follows:

444.674 1. A salvage yard must not be established until the location, facilities and proposed method of operation have been approved by the solid waste management authority.

2. Salvage in a salvage yard must be stored in an orderly manner so as to prevent harboring rodents, any public nuisance and accidents.

3. All nonsalvageable material must be stored and disposed of according to NAC 444.660 to 444.666 inclusive, and 444.678 to 444.728, inclusive, and sections 2 to **[87,] 86.5**, inclusive, of **[this regulation,] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**. In no case may nonsalvageable items be stored for more than 1 week.

4. No garbage or similar putrescible material may be present at a salvage yard, except in approved containers for such materials.

**Sec. 11.** NAC 444.678 is hereby amended to read as follows:

444.678 The location of a Class I site must:

1. Be easily accessible in all kinds of weather to all vehicles expected to use it.

2. Prevent pollutants and contaminants from the municipal solid waste landfill units at the site from degrading the waters of the state.

3. Prevent uncontrolled migration of gas at the site.

4. Have an adequate quantity of earth cover that is workable and compactible and does not contain organic material of a quantity and distribution conducive to harboring and breeding disease vectors.

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5. Conform with land use planning of the area.
6. Not be within one-fourth mile of the nearest inhabited dwelling or place of public gathering or be within 1,000 feet of a public highway, unless special provisions for the beautification of the site and the control of litter and vectors are included in the design and approved by the solid waste management authority.
7. Meet with the approval of the solid waste management authority.
8. Comply with the requirements set forth in **[sections 37 to 43 inclusive, of this regulation.] 35 to 41, inclusive, of this regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93.**
9. Unless approved by the solid waste management authority, not be within 1,000 feet of any surface water or 100 feet of the uppermost aquifer if the site is approved after September 2, 1992.

**Sec. 12.** NAC 444.748 is hereby amended to read as follows:

444.748 1. Any person who believes that an alternative to any standard specified in NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5, inclusive, of [this regulation,] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93,** will comply with the intent of the specified standard and will protect public health and the environment, may petition the state environmental commission for a variance in accordance with its procedural rules. A variance may not be granted if it is inconsistent with the federal criteria for landfills set forth in 40 C.F.R. Part 258, as that part existed on **[the effective date of this regulation.] November 8, 1993.**

2. Any person who wishes to appeal from a decision or action of the solid waste management authority may do so. Such an appeal must be made in writing in accordance with the state environmental commission's procedural rules.

**Sec. 13.** Section 22 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 22. The provisions of NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5, inclusive, of [this regulation,] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93,** do not waive or circumvent the provisions of NRS 445.131 to 445.354, inclusive, 445.401 to 445.610, inclusive, 445.400 to 459.600, inclusive, and 459.800 to 459.856, inclusive. Each owner and operator shall comply with all other laws and regulations adopted and orders issued pursuant to those sections governing the disposal of solid waste.

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**Sec. 14.** Section 34 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 34. 1. A plan for postclosure which specifies how and at what frequency a municipal solid waste landfill unit will be maintained and monitored during the period of postclosure must include:

(a) A program for monitoring water which complies with the requirements of sections 43 to 61, inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;***

(b) A program for the inspection and maintenance of:

(1) The final cover;

(2) Structures for drainage and protection from floods; and

(3) Systems for monitoring and controlling landfill gases.

(c) The name, address, and telephone number of the person or office to contact about the unit during the period of postclosure;

(d) A description of the planned uses of the property during the period of postclosure; and

(e) Any other information which the solid waste management authority may require.

2. Any use of the property during or after the period of postclosure must not disturb the integrity of the final cover, liners, any other components of the system for containment or the function of the monitoring system unless necessary to comply with the requirements of NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5**, inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93,***

**Sec. 15.** Section 39 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 39. 1. A new municipal solid waste landfill unit or lateral expansion may not be located in a seismic impact zone, unless the owner or operator submits proof to the solid waste management authority that all structures for containment, including liners, systems for the collection of leachate and systems for the control of surface water, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator shall place the proof in the operating records for the site and notify the solid waste management authority that the proof has been placed in the operating records.

2. As used in this section:

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(a) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock which

formed by the crystallization of magma or by the induration of loose sediments. The term does not include man-made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soils or regolith lying at or near the surface of the earth.

(b) "Maximum horizontal acceleration" means the maximum expected horizontal acceleration depicted on a seismic hazard map with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a seismic risk assessment for the specific site.

(c) "Seismic impact zone" means an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material will exceed 10 percent of the earth's gravitational pull in 250 years, as determined by referencing the United States Geological Survey, Open File Report 82-1033, "Probabilistic Estimates of Maximum Acceleration and Velocity in Rock in the Contiguous United [States," or by consulting state seismicity maps for Nevada which are available from the Nevada Bureau of Mines and Geology.] States."

**Sec. 16.** Section 43 of the regulation adopted by the state environmental commission that filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 43. 1. The requirements for monitoring ground water set forth in sections 45 to 54, inclusive, of **[this regulation] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93,** may be suspended by a solid waste management authority for a municipal solid waste landfill unit in a Class I site if the owner or operator can demonstrate that there is no potential for migration of hazardous constituents from that unit to the uppermost aquifer during the active life of the unit, including the period of closure and postclosure. The demonstration must be certified by a qualified ground water scientist and approved by the solid waste management authority. The demonstration must be based upon:

(a) Measurements collected at specific field sites and the sampling and analysis of physical, chemical, and biological processes affecting the fate and transportation of contaminants; and

(b) Predictions of the fate and transportation of contaminants which are based on the maximum possible **[distance] rate** of the migration of the contaminants and a consideration of the impacts on public health and safety and the environment.

2. Except as otherwise provided in section 44 of **[this regulation] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as**

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**Codified 11/21/93.**

**LCB File No. R051-93**, the owner or operator of a municipal solid waste landfill unit in a Class I site shall comply with the requirements for monitoring ground water according to the following schedule:

- (a) An existing municipal solid waste landfill unit and lateral expansion that is less than 1 mile from a surface or subsurface intake for drinking water must comply with sections 45 to 54, inclusive, of **[this regulation] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, by October 9, 1994.
  - (b) An existing municipal solid waste landfill unit and lateral expansion that is at least 1 mile but less than 2 miles from a surface or subsurface intake for drinking water must comply with sections 45 to 54, inclusive, of **[this regulation] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, by October 9, 1995.
  - (c) An existing municipal solid waste landfill unit and lateral expansion that is at least 2 miles from a surface or subsurface intake for drinking water must comply with sections 45 to 54, inclusive of **[this regulation] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, by October 9, 1996.
  - (d) A new municipal solid waste landfill unit must comply with sections 45 to 54, inclusive, of **[this regulation] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, before waste may be placed in the unit.
3. Once monitoring of ground water begins at a municipal solid waste landfill unit, the owner or operator of the unit shall continue to monitor the ground water throughout the active life of the unit, including the period of closure and postclosure, as specified in section 72 of **[this regulation.] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993 and designated as LCB File No. R051-93**.

**Sec. 17.** Section 54 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 54. 1. The administrator shall establish a standard for the protection of ground water for each constituent listed in appendix II detected in the ground water as follows:

- (a) For a constituent for which a maximum contaminant level has been set forth pursuant to the

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Safe Drinking Water Act, (42 U.S.C. §§ 300f et seq.), and 40 C.F.R. Part 141, as those sections existed on **[the effective date of this regulation,] November 8, 1993**, the maximum contaminant level for that constituent.

(b) For a constituent for which a maximum contaminant level has not been adopted, **[the level which is consistent with NRS 445.131 to 444.354, inclusive, and the regulations adopted pursuant thereto, and is protective of public health and safety and the environment.] a level equal to:**

***(1) The background concentration of the constituent; or***

***(2) An appropriate level that is based on the protection of public health and safety and complies with the following requirements:***

***(I) The level must be established in compliance with state and federal guidelines for assessing the health risks of environmental pollutants;***

***(II) The level must be based on scientific studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards, 40 C.F.R. Part 792, as those standards exist on the effective date of this regulation, or equivalent studies:***

***(III) For carcinogens, the level must represent a concentration of the constituent that is associated with an excess risk of cancer caused by a continuous lifetime exposure which is within a range of  $1 \times 10^{-4}$  to  $1 \times 10^{-6}$ , inclusive; and***

***(IV) For systemic toxicants, the level must represent a concentration to which a human being could be exposed on a daily basis without an appreciable risk of deleterious effects during the course of his lifetime. As used in this sub-subparagraph, "systemic toxicant" includes toxic chemicals that cause deleterious effects other than cancer or mutation.***

(c) For a constituent for which the background level is higher than the maximum contaminant level set forth in paragraph (a) of this subsection, the background concentration **[.] of the constituent.**

2. In establishing standards pursuant to paragraph (b) of subsection 1, the administrator may consider:

(a) Multiple contaminants in the ground water;

(b) Potential threats to sensitive areas of the environment; and

(c) Other threats specific to that site or potential threats to ground water.

**Sec. 18.** Section 63 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

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Sec. 63. 1. An owner or operator shall provide for the control of explosive gas at the municipal solid waste landfill unit in accordance with the provisions of this section.

2. The owner or operator shall ensure that:

(a) The concentration of methane gas generated at the unit does not exceed 25 percent of the lower explosive limit for methane in structures, excluding components for any system to control or recover the gas; and

(b) The concentration of methane gas does not exceed the lower explosive limit for methane at the boundary of the unit.

3. The owner or operator shall carry out a routine program for monitoring methane gas to ensure that the standards set forth in **[paragraph (a) of]** subsection 2 are met. The level of methane must be monitored at least quarterly each year. The type and frequency of monitoring must be determined based on the:

(a) Conditions of the soil;

(b) Hydrogeologic conditions surrounding the unit;

(c) Hydraulic conditions surrounding the unit; and

(d) Location of the structures and boundaries of the unit.

4. If the owner or operator detects levels of methane gas exceeding the limits specified in paragraph (a) of subsection 2, he shall:

(a) Immediately take all necessary actions to ensure protection of public health and safety and notify the solid waste management authority;

(b) Except as otherwise provided in subsection 5, within 7 days after detection, place in the operating records for the unit the levels of methane gas detected and a description of the actions taken to protect public health and safety; and

(c) Except as otherwise provided in subsection 5, within 60 days after detection, carry out a plan for remediation for the releases of methane gas, place a copy of the plan in the operating records and notify the solid waste management authority that the plan has been carried out. The plan must describe the nature and extent of the problem and the proposed remedy.

5. The solid waste management authority may establish alternative schedules for demonstrating compliance with paragraphs (b) and (c) of subsection 4.

6. As used in this section, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25EC and at atmospheric pressure.

**Sec. 19.** Section 67 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.

**Codified 11/21/93.**

Sec. 67. 1. The owner or operator of a Class I site shall record and retain at the site in the operating records or at a location approved by the solid waste management authority, the following information as it becomes available:

(a) Any demonstration of restrictions on location required by NAC 444.678 and sections 35 to 40, inclusive, of **[this regulation;] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;***

(b) Records of inspection, training procedures and procedures for notification required by section 62 of **[this regulation;] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;***

(c) Results from the monitoring of gas and any remediation plans required by section 63 of **[this regulation;] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;***

(d) Any documentation relating to the design of the municipal solid waste landfill unit for the placement of leachate or gas condensate in the unit as required by paragraph (b) of subsection 2 of NAC 444.692;

(e) Any demonstration, certification, finding, monitoring, testing or analytical data from the program for monitoring ground water required by sections 43 to 61, inclusive, of **[this regulation;] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;***

(f) Plans for closure and postclosure and any monitoring, testing or analytical data required by sections 32, 34 and 69 to 72, inclusive, of **[this regulation;] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;*** and

(g) Any documentation of cost **[estimate] *estimates*** and financial assurance required by NAC 444.685.

2. The owner or operator shall notify the solid waste management authority when the documentation has been placed in or added to the operating records. All information contained in the operating records must be furnished upon request to the solid waste management authority or be made available at all reasonable times for inspection by the solid waste management authority.

3. The solid waste management authority may establish alternative schedules for recordkeeping and notification required by NAC 444.570 to 444.748, inclusive, and sections 2 to **[87,] 86.5,** inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-***

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.

93, except for the notification required by paragraph (c) of subsection 1 of section 35 of [this] *that* regulation and by subsection 3 of section 53 of [this] *that* regulation.

**Sec. 20.** Section 70 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 70. 1. At least 15 days before beginning the closure of a municipal solid waste landfill unit at a Class I site pursuant to subsection 2, an owner or operator shall provide notice to the solid waste management authority of the intent to close the unit.

2. The owner or operator shall begin activities for the closure of the municipal solid waste landfill unit no later than 30 days after the date on which the unit receives the final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than 1 year after the most recent receipt of wastes. Extensions beyond the 1-year deadline may be granted by the solid waste management authority if the owner or operator demonstrates that the unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all actions necessary to prevent threats to public health and safety and the environment from the open unit.

3. **[The] *Except as otherwise provided in subsections 4 and 5, the*** owner or operator of a Class I site shall complete activities for the closure of each municipal solid waste landfill unit at the site in accordance with the plan for closure within 180 days after the beginning the closure. Extensions of the period for closure may be granted by the solid waste management authority if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and that the owner or operator has taken and will continue to take all actions to prevent threats to public health and safety and the environment from the open unit.

4. ***The owner or operator of a Class I site which stopped receiving waste before November 8, 1993, shall:***

***(a) Comply with the requirements for a final cover set forth in section 69 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93; and***

***(b) Complete activities for the closure of each municipal solid waste landfill unit at the site by May 8, 1994.***

5. ***The owner or operator of an existing municipal solid waste landfill unit or lateral expansion at a Class I site which accepts less than 100 tons of solid waste per day shall, if the site stops receiving waste before April 9, 1994:***

***(a) Comply with the requirements for a final cover set forth in section 69 of the regulation***

Petition 94006 was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.



*adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93; and*

*(b) Complete activities for the closure of each municipal solid waste landfill unit at the site within 180 days after the last receipt of waste.*

6. After the closure of each municipal solid waste landfill unit, the owner or operator of the site shall notify the solid waste management authority that a certification, signed by an independent registered professional engineer and approved by the solid waste management authority verifying that closure has been completed in accordance with the plan for closure, has been placed in the operating record of the site.

**Sec. 21.** Section 82 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

*Sec. 82. If this state assumes legal responsibility for an owner's or operator's compliance with the requirements for closure, postclosure or corrective action set forth in NAC 444.570 to 444.748, inclusive, and sections 2 to 86.5, inclusive, of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, or assures that money will be available from the state to cover the related expenses, the owner or operator shall be deemed to be in compliance with the requirements of NAC 444.685. Any assumption of responsibility by this state must meet the criteria specified in section 84 of the regulation by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93.*

**Sec. 22.** Section 85 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

*Sec. 85. 1. The owner or operator of a Class II site shall provide suitable shelter, drinking water and sanitary facilities for the employees who work at the Class II site.*

*2. The owner or operator of a Class II site shall comply with:*

*(a) Section 32 of this regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, for the closure of the municipal solid waste landfill units:*

*(b) Section 34 and 72 of the regulation adopted by the state environmental commission that was*

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.

*filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, for the postclosure maintenance of municipal solid waste landfill units;*

*(c) NAC 444.685 and sections 73 to 84, inclusive, of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93;*

*(d) NAC 444.692 and 444.698 and sections 62 to 68, inclusive, of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93; if the Class II site contains at least one municipal solid waste landfill unit;*

*(e) NAC 444.678 and sections 35 to 41, inclusive, of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93; and*

*(f) Sections 69, 70 and 71 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93.*

**Sec. 23.** Section 86 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 86. 1. The owner and operator of a Class II site shall install, by October 9, 1996, a system for monitoring the ground water which complies with section 45 of **[this regulation,] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, if all of the municipal solid waste landfill units within the site are more than 2 miles from an intake for drinking water.

2. The owner or operator of a Class II site shall install, by October 9, **[1996,] 1995**, a system for monitoring the ground water which complies with section 45 of **[this regulation.] the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93**, if any municipal solid waste landfill unit within the site is less than 2 miles from an intake for drinking water.

**3. The owner or operator of a new Class II site shall install a system for monitoring ground water that complies with section 45 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, before the receipt of waste or by October 9, 1995, whichever is later.**

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.

4. The owner or operator of a Class II site shall comply with the requirements of sections 46 to 54 inclusive, of **[this regulation,] *the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93***, once a ground monitoring system has been installed in compliance with section 45 of **[this] *that*** regulation.

**Sec. 24.** Section 86.5 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 86.5 The owner or operator of a Class II site **[shall comply with sections 69, 70 and 71 of this regulation for the closure of the municipal solid waste landfill units if the Class II site contains at least one municipal solid waste landfill unit.] *that stops receiving waste before October 9, 1995, shall:***

- 1. Comply with the requirements for a final cover set forth in section 69 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93; and***
- 2. Complete activities for the closure of each municipal solid waste landfill unit at the site within 180 days after the last receipt of waste.***

**Sec. 25.** Section 116 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 116. NAC 444.685 is hereby amended to read as follows:

444.685 1. Except as otherwise provided in **[subsection 2, financial assurance for] *this section, the owner or operator of*** a Class I site or lateral expansion of a Class I site **[must] *shall*** comply with the provisions of **[40 C.F.R. Parts 258.70 to 258.74, inclusive.] *sections 73 to 84, inclusive, of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93.***

***2. Owners or operators of Class I sites:***

***(a) Who are entities of the State of the Nevada or the federal government;***

***(b) Whose debts and liabilities are of the State of Nevada or the federal government, are exempt from the provisions of this section.***

***3. The solid waste management authority may approve an alternate plan for financial assurance***

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.

***[.] if the alternate plan meets the criteria set forth in section 84 of this regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93.***

**Sec. 26.** Section 134.5 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, is hereby amended to read as follows:

Sec. 134.5. 1. The owner or operator of an existing municipal solid waste landfill unit or lateral expansion at a Class I site which accepts less than 100 tons of solid waste per day shall comply with the provisions of sections 31 to **[68, inclusive, and 72 of this regulation]** ***72, inclusive, of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93,*** by April 9, 1994.

2. The owner or operator of an existing municipal solid waste landfill unit or lateral expansion at a Class I site which accepts 100 tons or more of solid waste per day shall comply with the provisions of sections 32 to 68, inclusive, and 72 of [this regulation by the effective date of this regulation.] ***the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, by November 8, 1993.***

**Sec. 27.** Section 87 and 116 of the regulation adopted by the state environmental commission that was filed with the secretary of state on November 8, 1993, and designated as LCB File No. R051-93, are hereby repealed.

#### **END OF PETITION 94006 (R-208-93)**

Petition **94006** was adopted by the Environmental Commission on January 20, 1994 as a permanent regulation and it became effective on March 1, 1994 upon filing with the Secretary of State by the Legislative Counsel Bureau (LCB). This LCB file **R-208-93**. This petition (R-208-93) amends Environmental Commission petition's 93008 & 94001 (LCB R-051-93) as filed with the Secretary of State on November 8, 1993. Changes made previously to R-051-93, as filed on November 8, 1993, have been removed from this petition 94006.